

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

VERNESSA S. CUNNINGHAM and  
HERMAN CUNNINGHAM,

Plaintiffs,

vs.

WELLS FARGO BANK, NATIONAL  
ASSOCIATION, AS TRUSTEE OF THE  
BANC OF AMERICA ALTERNATIVE  
LOAN TRUST 2004-5; and,  
NATIONSTAR MORTGAGE LLC,  
D/B/A MR. COOPER,

Defendants.

CIVIL ACTION FILE  
NO. 1:19-CV-02296-TWT

**CONSENT PRELIMINARY INJUNCTION**

Following a duly noticed May 23, 2019 evidentiary hearing, this Court entered a Temporary Restraining Order [Doc. # 11] (the “TRO”) that was due to expire within 30 days after its entry.

Counsel for the defendants having appeared in this action, and it appearing that the parties now consent to the entry of the within Preliminary Injunction, it shall be entered pursuant to Federal Rule of Civil Procedure 65, and the inherent equitable powers of this Court.

This matter relates to the plaintiffs’ principal residence (the “Home”) with the following street address: **5024 Klondike Rd. Lithonia (DeKalb County)**,

**Georgia 30038** according to the current system of street numbering, and with the following legal description:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 231 AND 232 OF THE 11TH DISTRICT OF DEKALB COUNTY, GEORGIA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: TO FIND A BEGINNING POINT, START AT THE INTERSECTION OF THE SOUTHEASTERLY RIGHT OF WAY LINE OF KLONDIKE ROAD WITH THE CENTER LINE OF SOUTH RIVER AND RUNNING NORTH 71 DEGREES 43 MINUTES EAST 126.4 FEET ALONG KLONDIKE ROAD; THENCE RUNNING NORTH 60 DEGREES 38 MINUTES EAST ALONG KLONDIKE ROAD TO AN IRON PIN; THENCE RUNNING NORTH 48 DEGREES 11 MINUTES EAST ALONG KLONDIKE ROAD 165.31 FEET; THENCE RUNNING NORTH 27 DEGREES 51 MINUTES EAST ALONG KLONDIKE ROAD 166.40 FEET; THENCE RUNNING NORTH 07 DEGREES 08 MINUTES EAST ALONG KLONDIKE ROAD 180.45 FEET TO A POINT; THENCE RUNNING NORTH 14 DEGREES 34 MINUTES WEST ALONG KLONDIKE ROAD 182.22 FEET TO AN IRON PIN AND THE POINT OF BEGINNING; THENCE RUNNING NORTH 26 DEGREES 55 MINUTES WEST ALONG KLONDIKE ROAD 3340.0 FEET TO AN IRON PIN; THENCE RUNNING SOUTH 88 DEGREES 28 MINUTES EAST 973.12 FEET TO A POINT; THENCE RUNNING SOUTH 05 DEGREES 48 MINUTES WEST 299.76 FEET TO A POINT; THENCE RUNNING NORTH 88 DEGREES 28 MINUTES WEST 788.98 FEET TO THE POINT OF BEGINNING. **Tax Parcel ID: 1123201006.**

Accordingly, based on the findings made and for the reasons stated in the TRO, which are adopted in their entirety herein by this reference,

**IT IS HEREBY ORDERED** that the plaintiffs' Application for an Interlocutory (i.e., preliminary) Injunction [Doc. # 6] be and hereby is **GRANTED**, and that every named defendant in this action — including any individual defendant's officers, agents, servants, employees, and attorneys,

and any person in active concert or participation with any such person who receives actual notice of this Preliminary Injunction by personal service or otherwise — be and hereby are **ENJOINED** and **RESTRAINED** from the following activities:

PERFORMING ANY ACT THAT REPRESENTS THE ADVERTISING FOR SALE, CRYING OUT FOR SALE, SELLING, AUCTIONING, ENCUMBERING, TRANSFERRING, OR PHYSICALLY INSPECTING THE SUBJECT PROPERTY, OR OTHERWISE EXERCISING THE POWER OF SALE GRANTED UNDER ANY SECURITY DEED AFFECTING THE SUBJECT PROPERTY — INCLUDING ANY STRUCTURE THEREON OR ITS APPURTENANCES.

It is **FURTHER ORDERED** that, as a condition of the validity of this Preliminary Injunction, the plaintiffs shall deposit into the registry of the Clerk of Court the sum of **\$1,087.83** no later than the close of business on July 5, 2019; and that the plaintiffs shall deposit additional installments of \$1,087.83 by the fifth calendar day of each subsequent month until further order of this Court. Any conforming installments already paid, whether pursuant to the TRO or this Preliminary Injunction, and each subsequently deposited conforming installment shall serve as security for all claims that may arise with respect to this Preliminary Injunction.

This Preliminary Injunction shall take effect immediately and shall remain in effect for 90 days from the date of its entry. If this action remains pending after 90 days it shall automatically renew for an additional 90-day period, or further order of this Court.

IT IS SO ORDERED, this 20 day of June, 2019.

  
THOMAS W. THRASH, JR.,  
UNITED STATES DISTRICT JUDGE

PREPARED AND  
PRESENTED BY

CONSENTED TO:

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